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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,515	07/03/2001	Dean Furbush	09857-062001	4895

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FISH & RICHARDSON PC  
P.O. BOX 1022  
MINNEAPOLIS, MN 55440-1022

EXAMINER
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SUBRAMANIAN, NARAYANSWAMY

ART UNIT	PAPER NUMBER
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3692

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/24/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/898,515	<b>Applicant(s)</b> FURBUSH ET AL.	
	<b>Examiner</b> Narayanswamy Subramanian	<b>Art Unit</b> 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/28/2003</u> | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This office action is in response to applicant's communication of July 3, 2001.

Original claims 1-21 are pending and have been examined. The rejections are stated below.

#### **Claim Rejections - 35 USC § 112**

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-9 recite "An electronic market for trading of securities". It is not clear if an electronic market is an apparatus or a method or a process or a product. Appropriate clarification/correction is required. Claims 1-21 recite the limitations "ECNs", "UTP Exchanges", "non-attributable agency orders", "principal quotes" and "price/size/time priority". It is not clear what the applicants mean by these limitations. Also these claims recite the limitation "first displayed quotes/order of market makers, ECNs, and non-attributable agency orders of UTP Exchanges". There is insufficient antecedent basis for this limitation in these claims. Appropriate clarification/correction is required.

Claims 2 and 11 recite the limitation "at the first level of priority". There is insufficient antecedent basis for this limitation in these claims.

Claims 3 and 12 recite the limitation "displayed quotes and then reserve size". It is not clear if the "displayed quotes" are the same as "first displayed quotes/order of market makers, ECNs, and non-attributable agency orders of UTP Exchanges" and if the "reserve size" are the

same as “reserve size of market makers and ECNs”. Appropriate clarification/correction is required.

Claims 4 and 13 recite the limitation “executing the order against a first level of displayed quotes/orders of market makers, and ECNs that do not charge a separate quote-access fee, and non-attributable agency orders of UTP Exchanges with the execution being in time priority between such interest”. It is not clear where in the order of priority this executing step fits in. Appropriate clarification/correction is required.

Claims 5 and 14 recite the limitation “executing the order at the same level as ECNs that do not charge a separate quote-access fee against the quotes/orders of ECNs that charge a separate quote-access fee where the ECN that charges indicates that price improvement offered by the quote/order is equal to or exceeds the quote-access fee with the execution being in time priority between such interest”. It is not clear where in the order of priority this executing step fits in. Appropriate clarification/correction is required.

Claims 6 and 15 recite the limitation “if the order is not satisfied at the first level of priority further comprising: executing the order against a second level of priority that is displayed quotes/orders of ECNs that charge a separate quote-access fee to non-subscribers”. Since the limitation “the first level of priority” is itself not clear, it is not clear where executing the order against a second level of priority step fits in. Appropriate clarification/correction is required.

Claims 7-9 and 16-18 recite the limitation “third level of priority”, “fourth level of priority” and “fifth level of priority”. However since the first level of priority is not clear these levels carry the same ambiguity. Appropriate clarification/correction is required.

Claim 19 recites the limitations “non-directed order”, “marketable limit order” and “liability order for the receiving market participant”. It is not clear what the applicants mean by these limitations. Appropriate clarification/correction is required.

Claim 20 recites the limitation “the non-directed order”. There is insufficient antecedent basis for this limitation in this claim. Also the limitations “price/time, or price/size/time, or price/time that accounts for ECN access fees execution priority”. It is not clear what the applicants mean by these limitations. Appropriate clarification/correction is required.

Claim 21 recites the limitation “one of the priorities is that the order executes against displayed contra side interest in price/time priority”. It is not clear as to what the applicant means by “one of the priorities” and “price/time priority”. Appropriate clarification/correction is required.

Claims 10-21 recite the limitation “entering at a client station”. It is not clear as to what is entered at a client station. Claims 11-21 are rejected by dependency on a rejected independent claim. Claims 16 and 17 recite “The market of claim”. There is insufficient antecedent basis for this limitation in these claims.

In view of these ambiguities the examiner is unable to provide art rejections for these claims.

#### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are listed on the attached form PTO-892.
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Narayanswamy Subramanian whose telephone number is

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(571) 272-6751. The examiner can normally be reached Monday-Thursday from 8:30 AM to 7:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777. The fax number for Formal or Official faxes and Draft to the Patent Office is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only. For more information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dr. N. Subramanian  
Primary Examiner  
Art Unit 3692

January 21, 2007